IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: Karen A. GROSS et al.	
Application No.: 10/736,410	Group Art Unit: 2614
Filed: December 15, 2003	Examiner: Elahee, M
Attorney Docket: CDR96013C1 Client Docket: 09710_1206	

For: SINGLE TELEPHONE NUMBER ACCESS TO MULTIPLE COMMUNICATIONS SERVICES

APPEAL BRIEF

Honorable Commissioner for Patents
Alexandria, VA 22313-1450

Dear Sir:

This Appeal Brief is submitted in support of the Notice of Appeal dated July 24, 2007.

I. REAL PARTY IN INTEREST

Verizon Corporation is the real party in interest.

II. RELATED APPEALS AND INTERFERENCES

Appellants are unaware of any related appeals and interferences.

III. STATUS OF THE CLAIMS

Claims 110-131 are pending in this appeal, in which claims 1-109 have earlier been canceled. No claim is allowed. This appeal is therefore taken from the final rejection of claims 110-131 on April 24, 2007.

IV. STATUS OF AMENDMENTS

All amendments to the claims have been entered.

V. SUMMARY OF THE INVENTION

The present invention addresses problems associated with providing single telephone number access to multiple communications services.

Independent claim 110 reads as follows:

110. A method of providing telecommunications services via a service node, the method comprising:

receiving a voicemail message from a voicemail system (see, e.g., element 32 of Fig. 1A, and Specification, page 9, lines 4-5) the voicemail message being associated with a call that is transferred to the voicemail system from either a call processor within the service node or a switching system external to the service node;

prompting a caller associated with the voicemail for a call back number, wherein the call back number is attached to the voicemail message for automatic call back initiated by the subscriber (see, e.g., Specification, page 18, lines 15-16);

generating textual information based on the received voicemail message (see, e.g., Specification, page 21, lines 10-15); and

sending the textual information to a device specified by the subscriber of the

telecommunication services (see, e.g., Specification, page 15, lines 21-23, page 20, lines 5-15).

Independent claim 115 reads as follows:

115. A telecommunication node for providing telecommunications services, the node comprising:

an automated call distributor configured to receive a call from a user (see, e.g., Fig. 1A, element ACD 18, Specification, page 7, lines 12-14);

a call processor configured to provide a menu of options to the user, the options relating to the telecommunications services (see, e.g., Fig. 1A, elements 20, 24, Specification, page 7, lines 25-26);

a voicemail and facsimile platform (see, e.g., Fig. 1A, element 32, Specification, page 8, line 23 – page 9, line 9) configured to selectively generate a voicemail message from the call, wherein the call is transferred to the voicemail and facsimile platform selectively from within the node or outside of the node, wherein the user is prompted for a callback number that is attached to the voicemail message for automatic callback initiated by a subscriber (see, e.g., Specification, page 18, lines 15-16); and

a speech processor configured to generate textual information based on the voicemail message, wherein the textual information is forwarded to a device specified by the user (see, e.g., Specification, page 21, lines 10-15).

Independent claim 120 reads as follows:

120. A method for providing voicemail services within a multi-service telecommunication platform, the method comprising:

receiving a call placed by a user to the telecommunication platform, the call being selectively transferred internally or externally from the telecommunication platform (see, e.g., Figs. 1A and 2, element 12, Specification, page 10, lines 20-25, page 11, lines 19-25);

recording a voicemail message from the user (see, e.g., Specification, page 14, line 7, page 17, lines 5-17, page 18, lines 11-22) ;

prompting the user for a call back number, wherein the call back number is attached to the voicemail message for automatic call back initiated by a subscriber (see, e.g., Specification, page 18, lines 15-20); and

transmitting the voicemail message to a speech processor for conversion of the voicemail message to a different media, wherein the media is forwarded to a device specified by the user (see, e.g., Specification, page 21, lines 10-15).

Independent claim 125 reads as follows:

125. A system for providing voicemail services within a multi-service telecommunication platform (see, e.g., Fig. 1A, element 10, Specification, page 7, lines 4-29), the system comprising:

an interface configured to receive a call placed by a user to the telecommunication platform, the call being selectively transferred internally or externally from the telecommunication platform (see, e.g., Figs. 1A and 2, element 12, Specification, page 10, lines 20-25, page 11, lines 19-25); and

circuitry configured to record a voicemail message from the user (see, e.g., Specification, page 14, line 7, page 17, lines 5-17, page 18, lines 11-22),

wherein the user is prompted for a callback number, and the callback number is attached to the voicemail message for automatic callback initiated by a subscriber of the voicemail

services (see, e.g., Specification, page 18, lines 15-20), and

wherein the voicemail message is transmitted to a speech processor for conversion of the voicemail message to a different media, the media being forwarded to a device specified by the user (see, e.g., Specification, page 21, lines 10-15).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 110-114 and 120-131 are obvious under 35 U.S.C. § 103 based on *Miller* (US 4,930,152) in view of *Picard et al.* (US 6,233,318)?

Whether claims 115-119 are obvious under 35 U.S.C. § 103 based on *Miller* (US 4,930,152) in view of *Picard et al.* (US 6,233,318) and further in view of *LaVallee et al.* (US 5,181,236)?

VII. ARGUMENT

A. Claims 110-114 and 120-131 are not rendered obvious by *Miller* and *Picard et al.* because neither of the applied references discloses "generating textual information based on the received voicemail message" or the "conversion of the voicemail message to a different media."

The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention under any statutory provision always rests upon the Examiner. *In re Mayne*, 104 F.3d 1339, 41 USPQ2d 1451 (Fed .Cir. 1997); *In re Deuel*, 51 F.3d 1552, 34 USPQ2d 1210 (Fed. Cir. 1995); *In re Bell*, 991 F.2d 781, 26 USPQ2d 1529 (Fed. Cir. 1993); *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In rejecting a claim under 35 U.S.C. § 103, the Examiner is required to provide a factual basis to support the obviousness conclusion. *In re Warner*, 379 F.2d

1011, 154 USPQ 173 (CCPA 1967); *In re Lunsford*, 357 F.2d 385, 148 USPQ 721 (CCPA 1966); *In re Freed*, 425 F.2d 785, 165 USPQ 570 (CCPA 1970).

Independent claim 110 requires, *inter alia*, "generating textual information based on the received voicemail message." Independent claim 115 requires, *inter alia*, "a speech processor configured to generate textual information based on the voicemail message." Independent claim 120 requires, *inter alia*, "transmitting the voicemail message to a speech processor for conversion of the voicemail message to a different media, wherein the media is forwarded to a device specified by the user." Independent claim 125 requires, *inter alia*, "wherein the voicemail message is transmitted to a speech processor for conversion of the voicemail message to a different media, the media being forwarded to a device specified by the user."

Both parties agree that *Miller* lacks a teaching of a voicemail message and the generation of textual information based on a received voicemail message and sending the textual information to a device. But it is the Examiner's position that *Picard et al.* teaches these deficiencies of *Miller*, specifically referring to col. 9, lines 2-6, and col. 13, lines 45-49, of *Picard et al.* Appellants disagree.

Contrary to the Examiner's position, neither *Miller* nor *Picard et al.* discloses, teaches or suggests the claimed feature of "generating textual information based on the received voicemail message" or the "conversion of the voicemail message to a different media." It is interesting to note that the abstract of *Picard et al.* mentions that "For text type messages, such as facsimile and e-mail, the system converts the text into speech and plays the speech to the telephone user." Yet, it says nothing about converting speech, e.g., a voicemail message, into text based on the received voicemail message. Thus, *Picard et al.* does not contemplate "generating textual information based on the received voicemail message," as claimed.

Col. 9, lines 2-6, of *Picard et al.*, relied on by the Examiner, states that

> When the destination is not the same IMS the message is format converted as needed. Forwarding to another mailbox on the same IMS is implemented in the same way as for voice and facsimile, and operates independently of data type.

It is instructive to go back a few lines, beginning at col. 8, line 55, of *Picard et al.* for an understanding of the cited portion so as not to take the cited portion out of context. The reference states thereat that "Speech-to-text, or voice recognition, is also a means to send text messages from a conventional telephone..." Appellants do not deny that voice recognition, or speech-to-text conversion, *per se*, was known prior to the present invention. However, there is nothing in this portion of *Picard et al.* indicating that the "text" was generated "based on the received voice mail message." In fact, when *Picard et al.* mentions sending text from a conventional telephone, there is no indication of a voicemail message at all. Therefore, the logical assumption is that this refers to "real-time" speech on the telephone being converted to a text message on the receiving end, as, for example, on a PC or facsimile machine. But, in any event, there is no indication in *Picard et al.* that any text is generated "based on the received voicemail message." *Picard et al.* then goes on to describe forwarding, i.e., the deposit of a copy of a message in a different mailbox. See col. 8, lines 62 *et seq.*, where the reference describes forwarding of a "non-voice" message "because when the message **does not need to be converted to voice**, such as for facsimile messages, the message can be sent either to another mailbox, or to a subscriber-entered facsimile telephone number..." Thus, it appears that the incoming message is already in text form because if the message were already in voice, it would never need to be converted to voice. Therefore, *Picard et al.* cannot be suggesting the generation of textual information "based on the received voicemail message" because the received message in *Picard et al.* is not in voice-form, i.e., it is not a voicemail message. The reference continues its description onto col. 9, describing

the use of the invention for "other data types (video)." Of course video is not a voicemail message and still does not suggest the presently claimed subject matter. When the reference comes to the portion cited by the Examiner, i.e., col. 9, lines 2-6, stating that "when the destination is not the same IMS the message is format converted as needed," there is absolutely no suggestion that the format conversion referred to by *Picard et al.* is the generation of textual information based on a received voicemail message, as required by the present claims.

At col. 13, lines 45-49, of *Picard et al.*, also cited by the Examiner, the following is recited:

> If the message is native voice or facsimile, and the recipient address is not a phone number, the message is sent to the EMS 66, with the data converted to a MIME audio or image/tiff type.

This portion of *Picard et al.* clearly refers to a conversion of a native voice or facsimile to an audio or image format. It does not suggest anything about generating "textual information" based on a received voicemail message. Thus, while *Picard et al.* may concern format converting when a destination is not the same integrated messaging system and it may concern the forwarding of messages to other mailboxes, it clearly does not suggest the generation of textual information based on a received voicemail message, as required by the claims on appeal.

Moreover, even if the references teach what the Examiner alleges them to teach, an assumption with which Appellants disagree, there would have been no reason to make the combination of *Miller* and *Picard et al.* The Examiner wants to modify *Miller* with the teachings of *Picard et al.* in order to have *Miller* generate textual information based on a received voicemail message and then send the textual information to a device. The Examiner's rationale, *in toto*, for making this modification is "in order to send a message to particular destination of different format" [sic, Final Rejection, page 5]. But *Picard et al.* already generally teaches

sending messages of different formats to particular locations, so this is no reason for leading a skilled artisan to make the combination suggested by the Examiner. The Examiner's rationale does not explain, in any way, shape, or form, why the references would have been modified to provide for the generation of textual information "based on the received voicemail message," as claimed. The Examiner's rationale is devoid of any reasoning for establishing any relationship between generated textual information and a received voicemail message.

Specifically with regard to independent claims 115, 120 and 125, the Examiner relies on the same portions of *Picard et al.* as relied on for the rejection of independent claim 110. But while *Picard et al.* discusses a conversion to a MIME audio format, it is silent as to any "speech processor, as positively recited in claims 115, 120, and 125. Since neither reference teaches or suggests the claimed transmission of a voicemail message "to a speech processor for conversion of the voicemail message to a different media," as claimed, the rejection of these claims is improper and the Honorable Board is respectfully requested to reverse the Examiner's rejection of claims 110-114 and 120-131 under 35 U.S.C. § 103.

At page 3 of the Final Rejection, the Examiner argues that there must have been a "converter" in *Picard et al.* in order to convert an incoming message format into a receiving device message format and that this "converter" is the claimed "speech processor." Appellants disagree.

As explained above with regard to claim 110, *Picard et al.* does not teach or suggest the conversion of a voicemail message to text based on that voicemail message. Accordingly, the Examiner's conclusion that *Picard et al.* somehow teaches this from a general suggestion of format converting a message at col. 9, lines 2-6, is pure speculation based on impermissible hindsight and not based on any teaching or suggestion of the applied references.

Moreover, as argued above, and for the same reasons, even if the references taught what the Examiner alleges them to teach, an assumption with which Appellants strenuously disagree, the Examiner's rationale for making the combination is faulty since it lacks any rational basis.

Accordingly, the Examiner has not established a *prima facie* case of obviousness with regard to the subject matter of claims 110-114, and 120-131 and a reversal of the rejection of these claims by the Honorable Board is earnestly requested.

B. Claims 115-119 are not rendered obvious by *Miller* and *Picard et al.* in view of *LaVallee et al.* because *LaValee et al.* does not provide for the deficiencies of *Miller* and *Picard et al.*

With regard to the rejection of claims 115-119, the Examiner adds *LaVallee et al.* to the combination of *Miller* and *Picard et al.* However, since *LaVallee et al.* fails to provide for the deficiencies of the other references as described above, the rejection of claims 115-119 under 35 U.S.C. § 103 is also improper and a reversal of the rejection of claims 115-119 under 35 U.S.C. § 103 by the Honorable Board is also earnestly requested.

VIII. CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, Appellants request the Honorable Board to reverse each of the Examiner's rejections.

Respectfully Submitted,

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9/24/07
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IX. CLAIMS APPENDIX

110. A method of providing telecommunications services via a service node, the method comprising:

receiving a voicemail message from a voicemail system, the voicemail message being associated with a call that is transferred to the voicemail system from either a call processor within the service node or a switching system external to the service node;

prompting a caller associated with the voicemail for a call back number, wherein the call back number is attached to the voicemail message for automatic call back initiated by the subscriber;

generating textual information based on the received voicemail message; and

sending the textual information to a device specified by the subscriber of the telecommunication services.

111. A method according to claim 110, wherein the device in the sending step includes one of a printer or a facsimile machine.

112. A method according to claim 110, further comprising:

generating a document containing the textual information; and

forwarding the document to the device.

113. A method according to claim 110, further comprising:

receiving a personal identification number assigned to one of the subscriber or a non-

subscriber; and

controlling access to the telecommunication services based on the received personal identification number.

114. A method according to claim 113, further comprising:

identifying the subscriber based on the received personal identification number; and

retrieving a profile of the subscriber, wherein the textual information is sent to the device according to the profile.

115. A telecommunication node for providing telecommunications services, the node comprising:

an automated call distributor configured to receive a call from a user;

a call processor configured to provide a menu of options to the user, the options relating to the telecommunications services;

a voicemail and facsimile platform configured to selectively generate a voicemail message from the call, wherein the call is transferred to the voicemail and facsimile platform selectively from within the node or outside of the node, wherein the user is prompted for a callback number that is attached to the voicemail message for automatic callback initiated by a subscriber; and

a speech processor configured to generate textual information based on the voicemail message, wherein the textual information is forwarded to a device specified by the user.

116. A node according to claim 115, wherein the device includes one of a printer or a facsimile machine.

117. A node according to claim 115, wherein a document containing the textual information is generated and forwarded to the device.

118. A node according to claim 115, wherein a unique code is assigned to the user, the user being one of a subscriber or a non-subscriber to the telecommunication services, wherein the call processor controls access to the telecommunication services based on the code.

119. A node according to claim 118, wherein the subscriber is identified based on the code, the call processor retrieving a profile of the subscriber, wherein the textual information is sent to the device according to the profile.

120. A method for providing voicemail services within a multi-service telecommunication platform, the method comprising:

receiving a call placed by a user to the telecommunication platform, the call being selectively transferred internally or externally from the telecommunication platform;

recording a voicemail message from the user;

prompting the user for a call back number, wherein the call back number is attached to the voicemail message for automatic call back initiated by a subscriber; and

transmitting the voicemail message to a speech processor for conversion of the voicemail message to a different media, wherein the media is forwarded to a device specified by the user.

121. A method according to claim 120, wherein the device includes one of a printer or a

facsimile machine.

122. A method according to claim 120, wherein a document containing the media is generated and forwarded to the device.

123. A method according to claim 120, wherein a unique code is assigned to the user, the user being one of a subscriber or a non-subscriber to the telecommunication services, wherein access to the telecommunication services is controlled based on the code.

124. A method according to claim 123, wherein the subscriber is identified based on the code for retrieval of a profile of the subscriber, wherein the media is sent to the device according to the profile.

125. A system for providing voicemail services within a multi-service telecommunication platform, the system comprising:

an interface configured to receive a call placed by a user to the telecommunication platform, the call being selectively transferred internally or externally from the telecommunication platform; and

circuitry configured to record a voicemail message from the user,

wherein the user is prompted for a callback number, and the callback number is attached to the voicemail message for automatic callback initiated by a subscriber of the voicemail services, and

wherein the voicemail message is transmitted to a speech processor for conversion of the

voicemail message to a different media, the media being forwarded to a device specified by the user.

126. A system according to claim 125, wherein the device includes one of a printer or a facsimile machine.

127. A system according to claim 125, wherein a document containing the media is generated and forwarded to the device.

128. A system according to claim 125, wherein a unique code is assigned to the user, the user being one of a subscriber or a non-subscriber to the telecommunication services, wherein access to the telecommunication services is controlled based on the code.

129. A system according to claim 128, wherein the subscriber is identified based on the code for retrieval of a profile of the subscriber, wherein the media is sent to the device according to the profile.

130. A method according to claim 113, further comprising:

presenting the non-subscriber with a guest menu specifying a plurality of options corresponding to the voicemail.

131. A method according to claim 110, wherein the service node stores a phone number of the voicemail system if the voicemail system is external to the service node.

X. EVIDENCE APPENDIX

Appellants are unaware of any evidence that is required to be submitted in the present Evidence Appendix.

XI. RELATED PROCEEDINGS APPENDIX

Appellants are unaware of any related proceedings that are required to be submitted in the present Related Proceedings Appendix.